

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LYLE DEAN MISUN TIBBITS,

Defendant.

5:23-CR-50196-KES

REPORT AND RECOMMENDATION

This matter came before the court for a change of plea hearing on June 10, 2024. The Defendant, Lyle Dean Misun Tibbits, appeared in person and by his counsel, the Assistant Federal Public Defender, while the United States appeared by its Assistant United States Attorney.

The defendant consented in open court to the change of plea before a United States magistrate judge. This court finds that the defendant's consent was voluntary and upon the advice of counsel. The government also consented to the plea hearing before a magistrate judge. Further, the parties waived their right to object to the report and recommendation.

Defendant has reached a plea agreement wherein he intends to plead guilty to count 1 which charges him with bank fraud, in violation of 18 U.S.C. §§ 1344(2). At the hearing, the defendant was advised of the nature of the charges to which the defendant would plead guilty and the maximum penalties

applicable, specifically: 30 years in prison; a \$1,000,000 fine; or both; five (5) years supervised release; three (3) additional years' imprisonment if supervised release is revoked; a \$100.00 special assessment; and restitution. Upon acceptance of the plea by the court and imposition of sentence, the United States agrees to dismiss the remaining count in the indictment as it pertains to the defendant.

Upon questioning the defendant personally in open court, it is the finding of the court that the defendant is fully competent and capable of entering an informed plea, that the defendant is aware of the nature of the charges and the consequences of the plea, and that his plea of guilty to indictment is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense. The defendant's guilty plea to indictment is accepted. It is my report and recommendation that the defendant be adjudged guilty of that offense.

DATED this 10th day of June, 2024.

BY THE COURT:



DANETA WOLLMANN
United States Magistrate Judge